

PROFESSIONAL SERVICES AGREEMENT

This AGREEMENT (the "Agreement") is made this _____ day of _____, 2008, by and between the West Valley City, a municipal corporation of the State of Utah (hereinafter referred to as the "City") and Kenyon Consulting, Inc., a corporation (hereinafter referred to as "Kenyon").

W I T N E S S E T H :

WHEREAS, the City administers federal grant money for down payment loans and rehabilitation assistance for single family home owners; and

WHEREAS, the City desires to contract with a qualified consulting firm for the administration of the loan and rehabilitation assistance programs; and

WHEREAS, Kenyon is a qualified consulting company with the knowledge and expertise to provide consulting services to the City; and

NOW, THEREFORE, for and in consideration of the mutual covenants made herein, the parties hereby agree as follows:

A G R E E M E N T :

1. Service Agreement. The City and Kenyon hereby agree that the Kenyon shall provide certain consulting services to the City. These services shall be provided pursuant to the terms and conditions set forth in this Agreement, State law, City code, and any other applicable rule or regulation.
2. Services Provided by Kenyon. Kenyon hereby agrees to provide services, including, but not limited to:
 - a. Receipt of applications for the programs
 - b. Review of applications for general eligibility
 - c. Home inspections for evaluation of work required
 - d. Construction bidding and construction oversight
 - e. Collection of underwriting documents and preparation of loan documents
 - f. Loan package presentations to Loan Committee
 - g. Loan closings

- h. Prepare progress payments and change orders
 - i. Dispute resolution between contractors and homeowners
 - j. All permitting and compliance with local, county and state codes
 - k. Audit files
3. Minimum Service Level. Kenyon agrees to perform the tasks set forth above in an efficient and professional manner, and that said services shall be performed at a level consistent with the standards set forth in applicable law and the industry.
4. City Obligations. As consideration for the services provided by Kenyon, the City agrees to pay Kenyon as follows:
- a. \$1,250.00 after the loan has been approved and is ready for signature(s) by the property owner(s).
 - b. \$1,250.00 once the project is complete and the file is submitted to the City and audit ready.
 - c. \$400.00 for each Down Payment Assistance project completed and audit ready.
5. Schedule. Kenyon shall perform services during business hours as required to complete the scope of the work.
6. Independent Contractor.
- a. Kenyon shall be an independent contractor and, as such, shall have no authorization, expressed or implied, to bind the City to any agreements, settlements, liability, or understanding whatsoever. Kenyon agrees not to perform any acts as agent for the City, except as expressly set forth in this Agreement. Kenyon shall not represent itself to anyone as an employee of the City, but shall only as an independent contractor.
 - b. Kenyon shall be responsible for its own actions, specifically including liability resulting therefrom, and also including, but not limited to, benefits, insurance, workers compensation, and/or other applicable items.
 - c. The City shall not provide Kenyon's worker's compensation insurance, unemployment compensation insurance, or health insurance. Nothing in this Agreement shall be construed as entitling Kenyon to any benefits, compensation, retirement, or protections provided by the City to City employees. As an independent contractor, Kenyon shall be responsible for personal insurance coverage and shall hold the City harmless and indemnify the City from and against any and all claims related to unemployment compensation and / or worker's compensation.

7. Term. The term of this Agreement shall run from the date of its execution for a period of one year. This Agreement may be automatically renewed for an additional year provided neither party has terminated in accordance with Section 8 of this Agreement.
8. Termination of Agreement.
 - a. Either party may terminate this Agreement without cause by giving the other party five (5) days prior written notice.
 - b. Within 48 hours of the termination of this Agreement or at the end of the term of this Agreement, Kenyon shall return to the City any City equipment or documents in its possession.
9. Indemnification.
 - a. Kenyon agrees to indemnify and hold harmless the City for any damages, causes of action, costs, or claims that may arise in the performance of this Agreement that are caused by the actions or negligence of Kenyon.
10. Applicable Laws.
 - a. Kenyon shall obey all laws, ordinances, regulations, and rules of the federal, state, county, and municipal governments that may be applicable to Kenyon's actions pursuant to this Agreement.
 - b. If Kenyon's actions constitute or cause a violation of federal, state, or local law, said actions shall constitute a breach of this Agreement, and the Kenyon shall hold the City harmless from any and all liability arising out of, or in connection with, said violations, including any attorney's fees and costs incurred by the City as a result of such violations.
 - c. This Agreement shall be construed under and in accordance with the laws of the State of Utah.
11. Notices. Any notice required by this Agreement may be served by mailing or delivering such notice to the following addresses:

If to the City: West Valley City
 Attn: Chris Curtis
 3600 Constitution Boulevard
 WVC, Utah 84119

If to Kenyon: Kenyon Consulting

Jim Kenyon
13819 Osborne Lane
Draper, UT 84020
Phone: 523-8082

Either party may change its address upon notice to the other party.

12. City Representative. The City hereby appoints Chris Curtis, or her designee, as the City's representative to assist in the administrative management of this Agreement, to ensure that the work to be performed by the Kenyon is timely and adequately performed, and to provide for City approvals as may be required by this Agreement. The City's representative shall assist in coordinating, monitoring, and evaluating this Agreement to completion.
13. Attorney's Fees. In the event of default hereunder, the defaulting party agrees to pay all costs incurred by the non-defaulting party in enforcing this Agreement, including reasonable attorney's fees, whether by in-house or outside counsel, and whether incurred through initiation of legal proceedings or otherwise.
14. Entire Agreement. This Agreement contains the entire agreement between the parties, and no statement, promise, or inducements made by either party or agents for either party, which are not contained in this written Agreement, shall be binding or valid; and this Agreement may not be enlarged, modified, or altered, except in writing signed by both parties.
15. Assignment. This Agreement may not be transferred or assigned by Kenyon without the written permission of the City, which may be withheld at the City's sole discretion.
16. Severability. In the event any provision of this Agreement is held to be invalid or unenforceable, the remaining provisions shall remain valid and binding upon the parties. One or more waiver of any term, condition, or other provision of this Agreement by either party shall not be construed as a waiver of a subsequent breach of the same or any other provision.

IN WITNESS WHEREOF, the parties have hereto set their hands the day and year first above written.

Mayor

City Recorder

By: _____

Date: _____

By: _____

Title: _____

On this _____ day of _____, 2008, personally appeared before me _____ *[name of person(s)]*, whose identity is personally known to me or proved to me on the basis of satisfactory evidence, and who affirmed that he/she is the _____ *[title]*, of Kenyon Consulting, Inc., a corporation, and said document was signed by him/her in behalf of said corporation by authority of its bylaws or of a Resolution of its Board of Directors, and he/she acknowledged to me that said corporation executed the same.

Notary Public